

# Smart Practice: Legal and Financial Insights for your Clinics

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- No solicitor-client relationship is created by virtue of answering any legal questions
- Laws, regulations and tax rules may change over time, so do not rely on this presentation to make decisions in future without proper advice
- Consult your legal or accounting professional, as applicable, for determining how you should proceed before deciding anything based on our content

## EMPLOYMENT AND STAFFING

### No Agreement

- Vulnerable to disputes over responsibilities, pay and termination
- *Employment Standards Act* minimums and common law compensation apply

### Employment Agreement

- Provides certainty (i.e., resignations, notice periods, severance, vacations, etc.)

### Independent Contractor Agreement

- Typically seen with smaller clinics: clinic managers, or other part-time professionals
- Allows for more defined terms (expectations, relationship and confidentiality)
- Allows the parties to negotiate and set out clear recordkeeping and termination terms

# EMPLOYMENT AND STAFFING

01

Ensure proper payroll procedures and payments

- There could be significant penalties for late remittances and filings.

02

Employee vs. contractor considerations

03

Typically, the biggest issue I see in practices

- Severance
- Staff issues

## CORPORATE STRUCTURE

### Medical Clinic – Not Incorporated

#### PROS

- Simpler, as there is no need for incorporation
- Lower admin and legal costs
- Operating as a true cost-sharing arrangement, often avoiding 'associated companies' sharing of small business deduction (SBD)

#### CONS

- No legal entity to hold clinic assets and contracts
- Logistical challenges (i.e., staffing, bank account, etc.);
- More complex bookkeeping/reconciliation
- What happens if one party doesn't pay the other?

## CORPORATE STRUCTURE

### Medical Clinic – Incorporated

#### PROS

- Centralized handling of clinic-wide expenses and revenues
- Legal separation of liability – employees, lease, etc.
- Cost-sharing arrangement – decide if physicians get paid before or after expenses accounted for
- May be easier to obtain financing and sign contracts

#### CONS

- Added costs (legal and accounting)
- Governance obligations (i.e., shareholder agreements)
- 'Associated companies' assumption – does SBD need to be shared?
- Requires active management

# TAX/ACCOUNTING – CORPORATE STRUCTURE

1. Association
2. Specified Corporate Income
3. Cost share vs. partnership. Are you following your cost-share agreement?
4. GST implications
5. Cost-sharing split. How is this determined and calculated?
6. Property purchase – Opco vs. holdco
7. Income from other physicians working in the practice



# CASH FLOW AND PROFIT MANAGEMENT

## 1. Revenues

- Are all revenues being billed and collected in a timely manner?
- Are you working efficiently and in the highest value areas? Revenue producing vs. admin

## 2. Expenses

- Are all expenses necessary?
- Are they being reviewed regularly?
- Staffing is usually the largest expense. Are all staff necessary?

# CASH FLOW AND PROFIT MANAGEMENT

## 1. Excess cash

- What are you doing with the excess cash in the company?
  - Invest within the company
  - Invest in a holding company
  - Types of investments (active and passive)

## KEY AGREEMENTS IN MANAGING YOUR PRACTICE

### Group Governance Agreement

- This applies to all physicians at the clinic, whether they are shareholders or not
- Comprehensive, all-in-one agreement: covers financial matters, meeting frequency and decision-making processes, cost-sharing mechanics, appointing clinic director and privacy officer
- Deals with less common but sometimes contentious issues: approval of locums, procedures for adding or removing physicians, and retirement and disability provisions

### Cost-Sharing Agreement

- These deal with income and expense allocation only – there are no governance rules or group obligations
- Ideal for smaller clinics or where each physician operates completely independently from one another
- Different types of cost-sharing: fee-split (e.g. 70% clinic/30% physician) or expenses allocated based on FTE

# KEY AGREEMENTS IN MANAGING YOUR PRACTICE

## 3. Shareholders' Agreement (if the clinic is incorporated)

- Note: Not all physicians need to be shareholders of the medical clinic
- This is very similar to the Group Governance Agreement, but it addresses corporate aspects of a company (i.e., voting rights, buy-in, share transfers, dispute resolution, buy out mechanisms, etc.)

## 4. Data-Sharing Agreement

- This is an essential agreement for clinics with shared EMR systems
- It outlines access to patient records, confidentiality obligations, patient privacy under applicable health laws, and procedures for departure (i.e., data migration and record retention)
- **Templates of all these agreements are available on the Doctors of BC website under “Business Support – Managing Your Office” – obtain legal advice before using**

# LEASE OR BUY?

## 1. Leasing Premises

- Leasing provides for a lower upfront cost (versus purchasing real estate), however a lease is subject to landlord restrictions and as a tenant, there is less control over alternations and improvements
- Restrictions include access, signage, parking stalls, approvals for any improvements, etc.

## 2. Buying Real Estate

- Purchasing real estate is a form of a long-term asset and allows control over premises and renovations
- It can also lead to potential rental income from future tenants

## 3. Real Estate Holding Entity

- Incorporating a separate entity provides liability protection and tax planning benefits:
  - value of property separate from clinic value

# Questions & Contacts

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